

The appellant has gone outside the record to make two allegations, viz., that "the use of the books by the general public is a very incidental one," and that "it is not all encouraged by the officers." For these, there is not a particle of evidence. It is matter of history that since 1774 the members of Congress in Philadelphia not only used the books at the library, but took them home free of charge—that the members of the legislature for a long period of time did the same—that the

fit and desirable, for the purpose of giving effect to my wishes;" and it was obviously held not to be a charity, the chancellor saying:—"I think we might get over the alleged uncertainty as to the erection of a museum at Shakespeare's house, because applying the common understanding to that phrase 'museum' we could perfectly well direct what ought to have been done, and at Shakespeare's house, which is the locality. But then follows what seems to me to be fatal to the bequests as to private individuals, 'and for such other purposes as my said trustees, in their discretion shall think fit and desirable for the purpose of giving effect to my wishes.' *This is something beyond the formation of a museum, and it is something not necessarily ejusdem generis, when this is not to be considered a charity, and then it is 'for giving effect to my wishes.'*"

In *Carne vs. Long*, the bequest for the purchase and preserving books was for the use of the subscribers, and was restricted to such subscribers. It was obviously held not to be a charity, but a mere association for the mutual benefit of the contributors, and of no other persons. The facts were these:—The Penzance Library was established for the "purpose of purchasing and preserving books for the use of the subscribers," and was restricted to such subscribers. The public were not admitted to consult the books, except when strangers, and then only upon a proper recommendation, and for no longer than one month. By rule XXVII., "the property in the books and everything else belonging to the library shall be altogether vested in the officers for the time being, who shall be trustees for the subscribers," and by rule XXIX. it was provided, "the institution shall not be broken up as long as ten members remain; but whenever the number shall be reduced below ten, all donations shall be returned to the donors or their representatives who may claim the same; and the remaining books and other articles shall be forthwith sold by public auction and the proceeds appropriated to the foundation and support of some scientific institution in the town of Penzance, to be determined by a majority of the remaining members."

No one can doubt the law of these cases, and it was recognized in this State in the recent case of *Swift vs. Easton Society*, 23 P. F. Smith, 262, in which a beneficial society, whose benefits were confined exclusively to its own members, was obviously declared *not* to be a charity, inasmuch as "its benevolence begins and ends at home."

